

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
*Newport News Division*

UNITED STATES OF AMERICA,

v.

Criminal No.: 4:04cr115

TROY ANTHONY SHERRELL,

Defendant.

**MOTION TO VACATE PURSUANT TO 28 U. S. C. § 2255**

Now comes the defendant Troy Anthony Sherrell (the “Defendant”), by counsel, and respectfully moves the Court to vacate his prior conviction for one count of brandishing a firearm in relation to a “crime of violence”, in violation of 18 U.S.C. § 924(c) on the grounds that the Defendant’s predicate offense, Hobbs Act conspiracy, is not a “crime of violence” based upon the opinions of the United States Court of Appeals for the Fourth Circuit in *United States v. Simms*, 914 F. 3d 229 (4<sup>th</sup> Cir. 2019), *U.S. v. Davis*, 588 U.S. \_\_\_\_ (2019), and the authorities cited in the supporting memorandum being filed simultaneously with the instant motion.

TROY ANTHONY SHERRELL

/s/  
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**CERTIFICATE OF SERVICE**

I hereby certify that on the 15<sup>th</sup> day of July, 2019, I served a true copy of the foregoing via the CM/ECF system upon all counsel of record, including the following:

Howard Zlotnick, II, Esq.  
Attorney for Government  
United States Attorney's Office  
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I also certify that on the 15<sup>th</sup> day of July, 2019, I served a true copy of the foregoing by email upon the following non-electronic filer:

Janice B. Hyatt  
U.S. Probation Officer  
600 Granby Street, Suite 200  
Norfolk, VA 23510

I further certify that I mailed a copy of this pleading on this 15<sup>th</sup> day of July, 2019  
to:

Troy Anthony Sherrell  
Register Number 60167-083  
FMC Butner  
FEDERAL CORRECTIONAL INSTITUTION  
P.O. BOX 1600  
BUTNER, NC 27509

TROY ANTHONY SHERRELL

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/s/  
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